

Abstract

This thesis describes the most commonly committed tax criminal offense i.e., the evasion of taxes, fees, and other mandatory payments pursuant to Section 240 of the Criminal Code. The goal of the thesis is to examine the problematic aspects of this criminal offense and to call attention to the discrepancies in proceedings and judgements, with special attention to substantive and procedural aspect, relevant case law of the domestic courts, and the opinion of professional public. The body of the thesis is divided into five chapters. The first two chapters introduce the substantive basis of the topic, provide a brief overview of the history of tax crimes and, last but not least, underline the importance and relevance of the whole topic using publicly available statistical data. The third chapter is focused on the mutual connection between the criminal offense pursuant to Section 240 of the Criminal Code and two selected criminal offenses. The first being the non-payment of taxes, social security contributions and similar mandatory payments pursuant to Section 241 of the Criminal Code, with a focus on the role of effective regret. Among other things, this outlines the issue following the unprecedented judgment of the Constitutional Court of the Czech Republic concerning the voluntary action of the offender or the application of effective regret in tax proceedings. The second criminal offense this chapter focuses on is the misrepresentation of data relating to economic result and assets pursuant to Section 254 (1) of the Criminal Code. The end of this chapter is focused on the concurrence of these criminal offenses while trying to answer the question whether their concurrence is absolutely excluded. The fourth chapter focuses on the application of the procedural principle of *nemo tenetur se ipsum accusare*. In addition to the analysis of the scope of this principle in criminal proceedings, this chapter also deals with the question of the applicability of the current case law to the relatively new area of financial law which is the Invitation to Declare Assets pursuant to Act No. 586/1992 Coll., on income taxes. The fifth chapter aims to analyze the gradual development of the case law of criminal courts on the question of whether the tax administrator can exercise the property rights of the state in criminal proceedings and claim damages in the position of the injured party within the scope of section 43 (3) of the Code of Criminal Procedure. It is also closely examined the relatively new way of satisfying the injured party's claim in criminal proceedings through Act No. 59/2017 Coll., on the use of financial resources from proprietary criminal sanctions imposed in criminal proceedings and highlight the shortcomings and disadvantages thereof.

Key words:

Evasion of taxes, fees and other mandatory payments, effective regret, principle of nemo tenetur se ipsum accusare, adhesion proceedings